

Report to the Board of Adjustment

Prepared by the Maricopa County Planning and Development Department

Case: BA2005091

Variance

Hearing Date:

August 17, 2005 (continued from July 13, 2005)

Agenda Item:

8

Supervisory District:

3

*Indicates revisions or new information since the July 13, 2005 hearing date.

Applicant/Owner:

Laren Laws

Request:

Variances to permit:

- *1) A proposed single-family residence to setback 52 feet 5 inches from the street side (south) property line where 53 feet is the minimum required; and
- *2) A proposed lot coverage of 16.97% where 15% is the maximum allowed in the Rural-43 zoning district.

These variances are requested from the following Zoning Ordinance Section(s):

- 1) Section 503, Article 503.4.2
- *2) Section 503, Article 503.5.4

Site Location:

806 West Prickly Pear Trail – 7th Avenue and Yearling Road
(Phoenix/Deer Valley area)

Site Size:

54,450 square feet (1.25 acres)

Existing Zoning:

Rural-43

Current Use:

Vacant

Citizen

Support/Opposition:

None known

Staff

Recommendation: 1) **Approve** with stipulations
2) **Deny**

Existing On-Site and Surrounding Zoning:

1. On-site: Rural-43
North: Rural-43
South: Rural-43
East: Rural-43
West: Rural-43

Existing On-Site and Surrounding Land Use:

2. On-site: Vacant
North: Single-family residence under construction
South: Single-family residence
East: Vacant/7th Avenue
West: Single-family residence

Background:

3. **December 31, 1954:** The parent parcel was transferred from United States Government ownership to the first owner.
4. **Circa 1981:** Parent parcel 210-12-016 was split to create two parcels, 210-12-016 A and -016B. Parcel 210-12-016A is currently owned by the City of Phoenix.
5. **February 10, 2004:** Parcel 210-12-016B was split to create two parcels, 210-12-016C and -016D.
6. **August 6, 2004:** The current owner took title to the subject property via a Warranty Deed recorded under docket number **04-0913559**.
7. **June 1, 2005:** The applicant applied for this variance request.
- *8. **July 13, 2005:** The Board of Adjustment voted to continue this variance request case to the August 17, 2005 hearing date so the applicant could meet with staff and revise the site plan.
- *9. **July 25, 2005:** Staff met with the applicant's representative to discuss revisions to the variance requests.

Findings:

10. **Maricopa County Department of Transportation:** No response at the time this report was written.
11. **Flood Control District:** No objection to this request (see attached memo).
- *12. **Environmental Services Department:** No objection to this request (see attached memo)

Site Analysis:

13. The subject property is located 330 feet west of 7th Avenue and less than ¼-mile north of Yearling Road. 5th Avenue becomes 7th Avenue approximately ¼ mile north of Happy Valley Road and is a paved, local access, two-lane roadway with infrequent speed humps. Yearling Road is paved for less than a quarter mile to the east of 7th Avenue and a paved private drive to the west of 7th Avenue just south of the subject site. This rectangular shaped property is slightly larger than one acre, measuring 328 feet wide by 165 feet deep, and has an east/west lot orientation.
- *14. The subject site is a large undeveloped lot in an area with a few neighboring large lot properties with existing single-family residences. Many of the lots are fairly standard in size, each being the product of a 2.5 acre lot being split in two. The subject site is the product of a 2.5 acre lot split. There are 33-foot wide patent easements along the southern and western property lines of the subject site. The applicant has submitted revised plans proposing to build a 6,762 square foot residence (the original request was for a 7,101 square foot residence) with a 2,480 square foot detached accessory structure (the original request was for a 4,116 square foot detached garage/workshop) on the subject site. There is a small portion of a wash in the northwestern portion of the property that crosses the corner of the site and appears to lie within the patent easement. The subject site has been cleared of most of the native vegetation with only a few saguaro cactus and some small trees remaining. There are a number of piles of what appear to be clean fill at the western end of the subject site that have been on-site since at least November 2004.
15. Access to the site is from 7th Avenue to the east and by way of an access easement that crosses the southern portion of the adjacent site. The site is level and free of any physical hardships with the exception of the small segment of a wash.

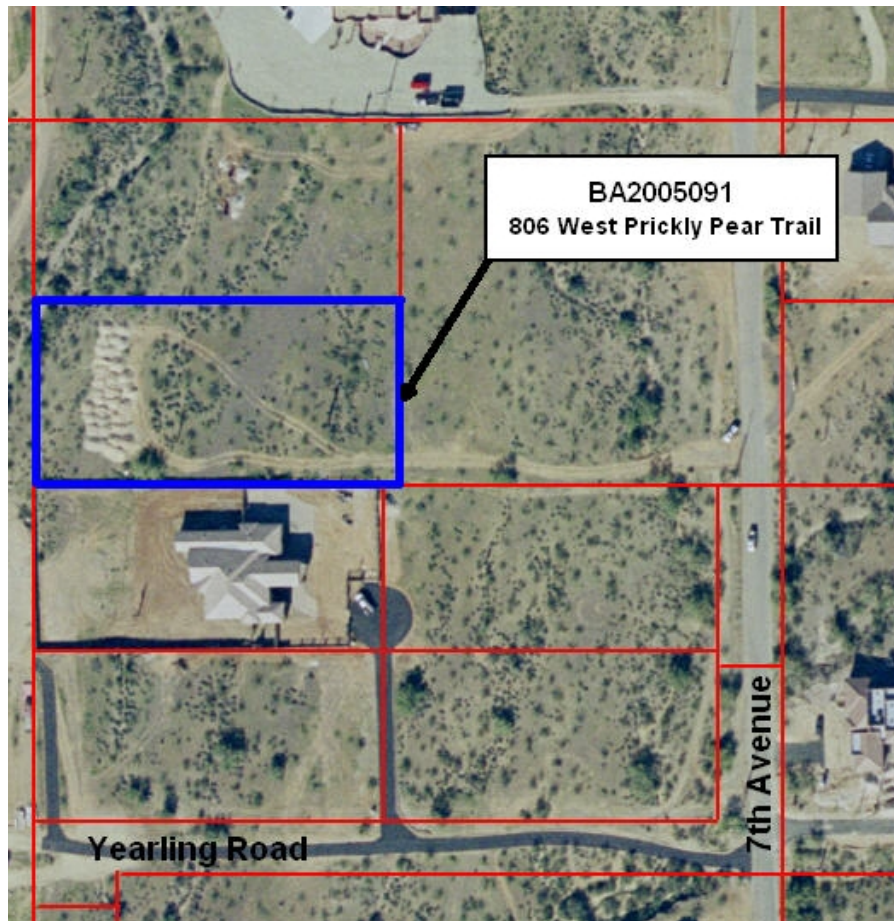
- *16. The following table is included to illustrate and contrast the standards for the underlying zoning district with those proposed by the applicant.

Standard	Rural-43 Zoning District	Proposed Standard
Front Yard Setback	40-feet	40-feet
Rear Yard Setback**	73-feet	40-feet
Side Yard Setback	30-feet	30-feet
Street Side Setback***	53-feet	52.4-feet
Maximum Height	30-feet/2 stories	29.1-feet/1story
Minimum Lot Area	43,560-sq. ft.	54,450-sq. ft.
Minimum Lot Width	145-feet	165-feet
Lot Coverage	15%	16.97%

*Standards indicated in **bold** do not meet minimum base zoning standards.

** Rear yard setback includes the patent easement.

*** Requested setback variance for the primary residence includes the patent easement.



Aerial view of the subject site and surrounding area.

Land Use Analysis:

17. The subject site is located in a Class 1 County Island surrounded by the by the City of Phoenix in the North Phoenix/Deer Valley area, west of 7th Avenue and north of Yearling Road. This area has developed recently through the lot splitting process and is primarily suburban-residential in nature. There are single-family homes adjacent to the subject site and the owner will use a patent easement for access. Roads in the area are a mixture of paved roads and private, unimproved ingress/egress easements. Terrain in the area is hilly with frequent washes.
18. The subject site and many of the surrounding lots are Small Tract Act lots or portions thereof. This means that many of the surrounding parcels are subject to patent easements that may hinder development somewhat. The subject site has 33 foot patent easements along its southern and western property lines. Normally, a patent easement provides access to a site and in this instance the easement crosses a property owned by the City of Phoenix.
19. The area immediately surrounding the subject site is rural in nature with scattered single family homes. Access to the site is from 7th Avenue by an unimproved dirt drive/easement with varying degrees of width and roughness. Some tracts of undeveloped desert land are still found in the area. Many of the surrounding homes have been built recently and overall the area does not follow a consistent pattern of development.
20. Staff found evidence of a number of variance cases in the surrounding area. Of these, five are similar in nature to the subject request, specifically related to patent easements. These cases are listed below.
 - Case **BA2004145** was a request for variances to permit: 1) a proposed single-family residence to setback 15 feet from the rear (east) property line where 40 feet is the minimum required; and 2) a proposed single-family residence to setback 48-feet 4 inches from the street side (north) property line where 53 feet is the minimum distance required. These variance requests were approved with stipulations by the Board of Adjustment. This property is located to the north, adjacent the subject site at 805 West Quartz Rock Road.
 - Case **BA2004035** was a request for variances to permit: 1) a proposed single-family residence to setback 42 feet from the front (south) property line where 73 feet is the minimum required, 2) a proposed single-family residence to setback 51 feet from the side (east) property line where 75 feet is the minimum required, 3) a proposed detached accessory structure (shop) to setback 22 feet from the side (northwest) property line where 30 feet is the minimum required; and 4) a proposed detached accessory structure (shop) to setback 57.5 feet from the side (east) property line where 75 feet is the minimum required. These variance requests have been continued indefinitely by the Board of Adjustment. This property is located 1,000 feet north of the subject site at 26112 North 7th Avenue.

- Case **BA2004100** was a request for a variance to permit a proposed garage addition to an existing single-family residence to setback 33 feet from the street side (west) property line where 53 feet is the minimum required. This variance request was approved with stipulations by the Board of Adjustment. This property is located ¼ mile northwest of the subject site at 1217 W. Briles Road.
- Case **BA2003150** was a request for variances to permit: 1) a proposed single-family residence to setback 35 feet 6 inches from the front (east) property line where 73 feet is the minimum required; and 2) a proposed single-family residence to setback 38 feet 6 inches from the side (south) property line where 53 feet is the minimum required. These variance requests were approved with stipulations by the Board of Adjustment. This property is located 600 feet northwest of the subject site at 26106 N. 9th Avenue.
- Case **BA2003128** was a request for variances to permit: 1) a proposed single-family residence to setback 15 feet from the side (north) property line where 30 feet is the minimum required, 2) a proposed single-family residence to setback 20 feet from the rear (west) property line where 40 feet is the minimum required, 3) a proposed detached accessory structure to setback 40 feet from the front (east) property line where 73 feet is the minimum required; and 4) a proposed detached accessory structure to setback 47 feet 5 inches from the street side (south) property line where 60 feet is the minimum required due to a mid-section line road alignment. These variance requests were approved with stipulations by the Board of Adjustment. This property is located approximately 1,000 feet east of the subject site at 512 W. Yearling Road.

Plan Analysis:

- *21. These are requests for two variances to allow the construction of a proposed single-family residence and an accessory structure (garage) on the subject site. The first request is to permit a proposed single-family residence to setback 52 feet 5 inches from the street side (south) property line where 53 feet is the minimum required. The second request is for a proposed lot coverage of 16.97% where 15% is the maximum allowed in the Rural-43 zoning district. The applicant/owner submitted for these variances prior to submitting building plans.
- 22. Variance request number one is a request to reduce the street side yard setback for the primary residence. The subject site was previously a part of a Small Tract Act lot that was subject to patent easements on all sides. The subject site is encumbered by patent easements on both the southern and western sides. The Zoning Ordinance requires that setbacks be taken from the edge of the patent easement. This means that the 33-foot width of the patent easement is added to the required setbacks for the zoning district. This results in fairly deep setbacks (53 feet and 73 feet) on both the southern and western sides of the site.

- *23. Variance request one is for the proposed residence and it's setback from the side (southern) property line. With the addition of the patent easement the required side yard is increased to 53 feet. The proposed house would be built 52 feet 5 inches from the side property line which would be more than adequate for a street side setback if not for the existing 33 foot patent easement. The building envelope for the subject site is 82 feet wide by 217 feet deep which should allow for a fairly wide front entry and building depth without the need for a variance. This proposal is for just 7 inches more width in the front than the maximum allowed 82 feet at 82 feet 5 inches. With the 1,245 square foot patio at the rear of the structure, the proposed house continues to be more than 110 feet deep. The livable area of the proposed house including the attached casita is 3,915 square feet which is roughly as large as some of the entire homes adjacent to the subject site. With nearly 7,000 square feet under roof including the three car garage and covered patios, the proposed home would be larger than any of the existing adjacent homes (with the exception of one home that is 7,900 square feet but is on a 2.5 acre lot). The revised site plan submitted on July 29, 2005 shows a 340 square foot reduction in the overall size of the house with primarily the removal of the pantry accounting for that lower figure. The removal of the pantry and minor reductions in other areas amount to a 4.7 percent reduction in the overall size of the proposed house. The home under construction in the adjacent lot to the north is nearly 1,000 square feet smaller than the proposed house. While this house is larger than neighboring houses, staff recognizes the physical hardship related to the patent easement on the southern edge of the property and that with the revisions there will still be more than enough separation between the primary residence and the neighbor to the south.
- *24. There are physical hardships (patent easements, septic and well location) and topographical hardships (the wash) on the subject site but they affect only the building envelope and the positioning of the home. The proposed residence, while rather large, is certainly not out of character with other homes in the area. Similar setback variances have been approved in the immediate area due to patent easements and washes. The proposed setback for the home will have little or no impact on the surrounding area as the presence of the patent easements creates an extra "buffer area" between properties. The applicant further reduced this request on the revised plans from more than 11 feet to seven inches by removing the pantry from the north side of the proposed residence and shifting the proposed house to the north. Therefore, staff continues to recommend approval of variance number one.
- *25. The second variance request is for lot coverage greater than the 15% maximum allowed which has been reduced in the resubmittal from 20.6% for 16.97%. Based on the size of the applicant's property, the total lot coverage allowed is approximately 8,150 square feet. The applicant first requested more than 11,200 square feet coverage or approximately 3,050 square feet more than is allowed by the Maricopa County Zoning Ordinance (MCZO). The revised request is for 9,242 square feet, an overall reduction of 1,958 square feet but the lot coverage continues to exceed the maximum allowable by 1,092 square feet. Staff met with the applicant's representative on July 25, 2005 and recommended that the detached garage be located outside of the side yard

setback and that the garage be placed partially within the rear yard/building envelope thereby removing the side yard variance request. The applicant has complied with that recommendation. Staff also recommended reducing the overall size of the proposed garage so that a lot coverage variance was unnecessary. The revised plans do not comply with that recommendation.

- *26. Following the Board of Adjustment hearing, the applicant resubmitted a proposed site plan with the size of the proposed detached garage reduced from 4,116 square feet to 2,480 square feet and from 22 feet to 18 feet in height. Even with this reduction in size, staff believes a 40 foot by 60 foot garage remains out of character with other accessory buildings in the area and continues to require a variance to the required lot coverage. The proposed residence includes a three car garage and the proposed detached accessory garage adds three more bays each of which are more than 40 feet deep. Staff believes that even though the applicant has reduced the original proposal by 1,627 square feet that the majority of this lot coverage variance request directly relates to the overall size of the accessory structure. No physical hardships affect the size and shape of this structure, only its placement. The size of the parcel itself allows for more lot coverage on the subject site than on a traditional one acre parcel. To comply with the Maricopa County Zoning Ordinance (MCZO), this structure would need to be further reduced by 1,100 square feet to approximately 1,390 square feet or by removing a little more than one garage bay. Reducing the overall size of the proposed garage would still provide shelter for the applicants RV, increase the area for parking, would then not be out of character with neighboring accessory structures, and reduce the total lot coverage to 15% eliminating the need for this variance request. Staff therefore recommends denial of variance request number two.

Recommendation: (BA2005091)

- *27. Staff recommends **approval** of variance request number one based on the following:
- There are hardships in the form of patent easements on the subject property that hinder development of the site.
 - The relief requested is the minimum required necessary to provide the applicant with full use and enjoyment of the property.
 - This request does not conflict with the intent of the Zoning Ordinance.

Subject to the following stipulations:

- a) General compliance with the revised site plan titled "Larry and Regina Laws" dated received July 29, 2005.
 - b) The applicant shall obtain all necessary permits within 120 days of Board approval.
28. If the Board finds that a reasonable use of the property can be made without this variance, then this request should be denied.

*29. Staff recommends **denial** of variance request two based on the following:

- Granting this request may confer a special privilege upon the applicant.
- There are viable alternatives available that could minimize or eliminate the need for this variance request.
- There is a reasonable use of the property without this variance.

*30. However, if the Board finds that a reasonable use of the property cannot be made without this variance, then this request may be approved, subject to the following stipulations:

- a) General compliance with the revised site plan titled "Larry and Regina Laws" dated received July 29, 2005.
- b) The applicant shall obtain all necessary permits within 120 days of Board approval.

mjlw

Attachments:

- * Case Map BA2005091
- Zoning Map
- Assessor Map
- Site Plan labeled "Laws Residence"
- *Site Plan labeled "Larry and Regina Laws"
- House plan and elevations (2 pages)
- * House plan and elevations (2 pages)
- Garage plan and elevations (2 pages)
- * Garage plan and elevations (1 page)
- Application
- Supplemental Questionnaire (2 pages)
- Flood Control District Memo
- Environmental Services Memo
- Photographs (3 pages)